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No. 01-944

Supreme Court, U.S.
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In The

Supreme Court of the United States

W.J. SPRADLEY, JR., EDWARD CAMPBELL and VIRGINIA CAMPBELL CARDIN as Representatives of the CAMPBELL REUNION MEMORIAL,

Petitioners,

vs.

OLD HARMONY BAPTIST CHURCH, BOARD OF TRUSTEES OF THE OLD HARMONY BAPTIST CHURCH, WILLIAM BAILEY, JAMES EMORY SPRADLEY, WAYNE HEATHERLY, RODNEY WATTS, WILLIAM E. REAMS as Personal Representative De Bonis Nonadministratis of the Estate of RICHARD SAMPSON PORTER (Intervenor),

Respondents.

On Petition For Writ Of Certiorari To The District Court Of Appeal First District, State Of Florida

REPLY BRIEF

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REPLY TO RESPONDENTS' OLD HARMONY BAPTIST CHURCH AND INTERVENOR'S BRIEF IN OPPOSITION TO PETITIONERS' PETITION FOR WRIT OF CERTIORARI.

The Respondents have requested this Court to ignore the undisputed record containing erroneous rulings of law and the First and Fourteenth Amendment violations to the U.S. Constitution. The record does not contain any factual issues. The Petitioners are not asking this Court to resolve any factual disputes. The record is unequivocal and undisputed that Judge R.A. Green, who was religiously motivated, blatantly violated the Petitioners' Fourteenth Amendment rights to the U.S. Constitution by reforming an 1889 deed without notice, pleadings, evidence, hearing or trial, on behalf of Harmony Baptist Church, a non-existent entity. Judge R.A. Green violated the Establishment Clause of the First Amendment to the U.S. Constitution by creating a non-existent deed and reforming an 1889 deed, and selecting a trustee solely based on an individual's baptism to lead the newly created church.

I. ARGUMENT.

A. RESPONDENTS' ARGUMENT THAT THE PETITIONERS' DUE PROCESS RIGHTS HAVE NOT BEEN VIOLATED IS NOT SUPPORTED BY THE RECORD.

The Respondents have incorrectly stated the Petitioners' position when Judge R.A. Green violated the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution. A short recitation of the facts surrounding the motion for summary judgment proceedings is necessary to clarify this issue.

The Petitioners and Respondents filed pleadings requesting the trial court to quiet title for the disputed land. The determination of which party had the superior claim of title for the disputed land was the sole issue to be resolved by the court.

The Petitioners moved to dismiss the Respondents' suit for not deraigning a chain of title as required under Chapter 65.061(3), Florida Statutes (1999). App. 5a. The trial court denied the Petitioners' motion to dismiss and ordered the Petitioners to answer the Respondents' suit. The Petitioners countersued the Respondents for quiet title.

The parties did not file any pleadings requesting the trial court to reform an 1889 deed. The court lacked subject matter jurisdiction to reform an 1889 deed.

Respondent Old Harmony Baptist Church filed a motion for summary judgment against the Petitioners asserting that Petitioner W.J. Spradley, Jr., did not own the disputed land, conceded the church lacked standing, and alleged that R.S. Porter owned the disputed four acres.

Petitioners filed a motion for summary judgment against Respondent Old Harmony Baptist Church and argued that W.J. Spradley, Jr., owned the disputed land under the 1952 deed and acquired it through adverse possession before 1939. Additionally, Petitioners argued that the church lacked standing. App. 5a.

The Petitioners filed a motion for summary judgment against Respondent William Reams and argued his claim for the disputed land under the 1889 deed recorded in 1906 was time barred under Chapter 95.231(2), Florida Statutes (1999). (volume III, pages 546-587). The trial court granted the Petitioners' motion for summary judgment against Respondents Old Harmony Baptist Church and Intervenor and granted Respondent Old Harmony Baptist Church's motion for summary judgment against the Petitioners. App. 1a, 4a, 6a.

The motion for summary judgment hearing was a non-evidentiary hearing in which the attorneys made oral arguments. Evidence was not introduced by any party. Witnesses did not testify during the motion for summary judgment hearing on December 9, 1999. (R: volume VIII, pages 1413-70).

After the December 9, 1999 motion hearing, Judge R.A. Green granted all motions for summary judgment and reformed the 1889 deed. Judge R.A. Green informed the parties on December 17, 1999 of his decision to cancel the trial that was scheduled to resolve the quiet title issue and of his intention to determine the former trustees of Harmony Baptist Church.

Judge R.A. Green created a non-existent deed by relying upon the 1885 unrecorded bond between R.S. Porter and J.B. Spradley. The trial court's reformation of the 1889 deed was time barred under Chapter 95.231(2), Florida Statutes (1999). Judge R.A. Green reformed the 1889 deed without notice, pleadings, hearing, trial, or testimony from the witnesses who signed the 1885 bond and 1889 deed.[1] The Petitioners timely objected that Judge R.A. Green violated the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution when he created a non-existent deed and reformed the 1889 deed between December 10, 1999 and December 17, 1999. App. 11a, 12a. The Petitioners have not argued that the trial court violated the Petitioners' due process rights at any other time during the lower court proceedings.

From the date Judge R.A. Green was assigned this case, he only convened evidentiary hearings on December 20, 1999 and July 14, 2000. During the December 20, 1999 hearing, the trial court attempted to determine the existence of Harmony Baptist Church members. The trial court partitioned the two acres titled in Harmony Baptist Church during the July 14, 2000 hearing. These two hearings were not associated with the court's earlier ruling reforming the 1889 deed without a trial. (R: volume IX, pages 1502-83; volume VI, pages 1069-1139).

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[1] Respondents stated in their opposition brief the 1885 unrecorded bond was requested in discovery. The bond was never requested by the Respondents. The Respondents made the same argument unsuccessfully in the trial court and requested sanctions which were denied by the court. Petition for Writ of Certiorari, App. 10a, 12a.

The Respondents' argument that Chapter 95.231(2), Florida Statutes (1999), is not applicable when the trial court reformed the 1889 deed is an erroneous interpretation of Florida jurisprudence.[2] The Petitioners filed a motion for summary judgment against the Respondent William Reams arguing the 1998 suit challenging the 1889 deed, recorded in 1906, was time barred. Harmony Baptist Church, R.S. Porter, and Madison County Board of Public Instruction had until 1926 to challenge the 1889 deed conveying 160 acres to J.B. Spradley. Judge R.A. Green granted the Petitioners' motion for summary judgment against the Respondent William Reams under Chapter 95.231(2), Florida Statutes (1999).

The Petitioners suffered irreparable harm when the trial court created a non-existent deed, reformed the 1889 deed, and seized the Petitioners' land without a trial. If the trial court had granted the Petitioners an opportunity to be heard, they would have been able to present evidence and argue several defenses to include the statute of limitations under Chapter 95.231(2), Florida Statutes (1999).

In conclusion, the Petitioners were denied their due process rights when Judge R.A. Green reformed an 1889 deed without notice, evidence, or a trial in violation of the Fourteenth Amendment to the U.S. Constitution.

II. ARGUMENT.

A. RESPONDENTS' ARGUMENT THAT THE TRIAL COURT DID NOT VIOLATE THE ESTABLISHMENT CLAUSE OF THE FIRST AMENDMENT IS NOT SUPPORTED BY THE RECORD.

The record supports the conclusion that the result in this case was governed by the trial court's impermissible

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[2] *Inglis v. First Union National Bank*, 797 So.2d 26 (Fla. 1st DCA 2001), *Rigby v. Liles*, 505 So.2d 598 (Fla. 1st DCA 1987) App. 4a. These cases held that Chapter 95.231 (2), Florida Statutes (1999), bars any court from reforming a deed after it has been recorded in excess of twenty years.

interjection of religion in these proceedings which violated the Establishment Clause of the First Amendment. The trial court consistently refused to follow the Florida Rules of Civil Procedure, Rule 1.510(c) (1999), and Chapter 65.061(3), Florida Statutes (1999). Judge R.A. Green provided preferential treatment and allowed the Respondent Old Harmony Baptist Church to remain in the quiet title suit when it lacked standing. App. 1a, 6a.

During the December 20, 1999 evidentiary hearing, Judge R.A. Green shared his religious background with the parties by stating the following:

> THE COURT: And I'd like to make an announcement for the record. I was raised in the First Baptist Church of Starke. I was baptized there. I was a deacon in the First Baptist Church of Gainesville. Both were – and I assume still are – members at the time I was of the Southern Baptist Convention. I mention that only to say to these folks, that when you're talking Baptist religion and the denominational rulings of the church, I have some personal dealings of those. I'm now attending and a member of the First United Methodist Church of Starke. App. 34a.

During the December 20, 1999 evidentiary hearing, the trial court called W.J. Spradley, Jr., as the court's witness and asked the below questions. App. 24a-27a.

> EXAMINATION BY THE COURT:
>
> Q Can you give us the benefit of your information, if you have any, about that congregation? Specifically, were you a member of that congregation?
>
> A I was.
>
> Q Were you baptized in that church?
>
> A I don't recall being baptized because I was about ten or twelve years of age, so it's hard for me remember, but I was a member of the regulars.
>
> Q Where were you baptized, sir?

A I was baptized in Oklahoma.

Q And did you transfer here from Oklahoma?

A Well, not yet, no. Not to a local church, no.

Q I see. Was your baptism in Oklahoma before you were ten or after –

A After I was in the military.

Q And you began to attend there when you were ten or thereabouts, but you were later baptized in Oklahoma, I gather when you were in the service.

A Yes.

Q How old were you when you were baptized?

A I was about I believe – twenty-seven years old.

The court called William Bailey as its next witness and asked the following questions. App. 28a-32a.

EXAMINATION BY THE COURT:

Q Mr. Bailey, were you at any time a member or did you attend the church called Old Harmony one?

A Yes sir.

Q What was your connection, if any, with the church?

A Well, I was just a member, going to church, back in about '38,'39, somewhere around that, but I went there ever since I was – rightly before I was born, if you want to call it with my mother taking me.

Q All right. Now, when and where were you baptized?

A Old Harmony Church in Alligator Creek.

Q When was that?

A Well, that was about – I was about I guess a ten or twelve-year-old. I guess about '38, somewhere around there, '38 or '39.

Q Okay. What did you do after you – let me ask it a different way. When the church quit meeting there, where did you start attending?

A I didn't attend anymore.

Q No other church?

A No, I didn't go. I left and went down to Miami, Fort Lauderdale.

Q Did you move your letter to Miami?

A I moved there but I didn't go in no church down there.

Q You did not move your letter to Miami?

A No, sir, I did not move anything. It all stayed just like it was.

Q Where do you attend now?

A Where do I attend now? Old Harmony Church, the one that was tore down. They have a tent out there.

Q Where did you attend from the time you came back from Miami till you started attending out there?

A Well, I didn't go at the time when I first come back.

Q Is it accurate that your letter has never been moved from Old Harmony one?

A It's never been moved.

CROSS EXAMINATION BY MR. COLLINS:

Q And could you describe how that baptism took place in your own words for the Court, how you were baptized?

A Well, you just went and you walked in and they said a little prayer and turned you over backwards and held their hand over your mouth and nose to keep the water from going in, and stuck your head under and raised your back up.

The Respondents' counsel, Mr. Collins, observed during the December 20, 1999 hearing that the trial court was

attempting to recreate the 1945 Harmony Baptist Church congregation, and the below exchange occurred between the court and Mr. Collins. App. 35a.

> MR. COLLINS: Your Honor, may I ask a question, just so I know? I think I know where the Court is headed. I think –
>
> THE COURT: Where do you think the Court is headed?
>
> MR. COLLINS: We're trying to recreate a congregation that existed at that time that had trustees so we can vest title in them?
>
> THE COURT: No, no. We're probably trying to find out who was there so I can appoint some trustees.

Judge R.A. Green revealed his religious motivation during the May 5, 2000 motion hearing, asserting he would never permit abandoned church property to be adversely possessed, a motive which explains his rationale in denying Petitioner W.J. Spradley, Jr.'s claims for adverse possession. App. 36a, 37a.

The trial court's July 27, 2000 order violated the First Amendment to the U.S. Constitution prohibition of excessive entanglement when it appointed a trustee of a non-existent church.[3] During the December 20, 1999 evidentiary hearing, the trial court was informed that Harmony Baptist Church did not have any trustees, and the congregation had not been in existence since 1945.[4] App. 21a, 7a.

The court appointed William Bailey as a trustee solely because he had been a baptized member of the

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[3] On December 20, 1999, counsel for the parties cautioned the trial court several times that he was violating the Establishment Clause by becoming excessively involved in the affairs of a non existent Baptist church. App. 19a, 20a, 22a.

[4] The trial court incorrectly applied Chapter 692.101, Florida Statutes (1999), when Harmony Baptist Church never held title to the disputed land before 1986. App. 7a, 8a.

disbanded Harmony Baptist Church. App. 25a, 29a, Petition for Writ of Certiorari, App. 6a. Judge R.A. Green did not appoint William Bailey as a trustee for the newly created church until he signed his July 27, 2000 Final Judgment. Petition for Writ of Certiorari, App. 6a.

The Petitioners timely objected to the trial court appointing William Bailey as a trustee based on baptism by appealing the July 27, 2000 Final Judgment. The Petitioners argued in their brief to the Florida District Court of Appeal, First District, that the trial court breached the First Amendment to the U.S. Constitution by violating the Establishment Clause through the creation of a trusteeship and selection of a trustee based on baptism.

During the November 3, 2000 sanctions hearing, Judge R.A. Green engaged in the following colloquy with Mr. Collins:

> THE COURT: Do I have the authority to order all of you all to go to the Billy Graham crusade? I'm dead serious. Do I have that power? Are these parties still before me?
>
> MR. COLLINS: I've got Gator tickets, Judge.
>
> THE COURT: Do I have the authority to order all of these family members, and I'm talking about the Spradleys, the Baileys and the people that are involved in the case, do I have the authority to order them to go to the Billy Graham revival for the rest of this week?
>
> MR. COLLINS: Under your equitable powers, I would argue that you can apportion cost or sanctions any way you want. And I would, I would say that that would be legal. And I'm not just saying that – I think you've got it, yes, sir. The only thing short of it would be a –
>
> THE COURT: So I have the authority in lieu of dollar sanctions to make than an order?
>
> MR. COLLINS: I think you could, Judge.
>
> THE COURT: I'll give you some time to think about it. Let's take five.

After the parties returned from a brief recess, the Petitioners' counsel informed Judge R.A. Green that his intention to order the parties to attend the Billy Graham crusade was impermissible under the Establishment Clause of the First Amendment to the U.S. Constitution. Petition for Writ of Certiorari, App. 76a-80a.

In conclusion, there was insurmountable record evidence to support the conclusion that the Establishment Clause of the First Amendment to the U.S. Constitution was violated several times during the lower court proceedings.

CONCLUSION

This Petition for Writ of Certiorari should be granted based on the compelling arguments asserted by Petitioners.

Respectfully submitted,

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Fla.R.Civ.P. Rule 1.510

Rule 1.510. Summary Judgment

(a) For Claimant. A party seeking to recover upon a claim, counterclaim, crossclaim, or third-party claim or to obtain a declaratory judgment may move for a summary judgment in that party's favor upon all or any part thereof with or without supporting affidavits at any time after the expiration of 20 days from the commencement of the action or after service of a motion for summary judgment by the adverse party.

(b) For Defending Party. A party against whom a claim, counterclaim, crossclaim, or third-party claim is asserted or a declaratory judgment is sought may move for a summary judgment in that party's favor as to all or any part thereof at any time with or without supporting affidavits.

(c) Motion and Proceedings Thereon. The motion shall state with particularity the grounds upon which it is based and the substantial matters of law to be argued and shall be served at least 20 days before the time fixed for the hearing. The adverse party may serve opposing affidavits by mailing the affidavits at least 5 days prior to the day of the hearing, or by delivering the affidavits to the movant's attorney no later than 5:00 p.m. two business days prior to the day of hearing. The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. A summary judgment, interlocutory in character, may be

rendered on the issue of liability alone although there is a genuine issue as to the amount of damages.

(d) Case Not Fully Adjudicated on Motion. On motion under this rule if judgment is not rendered upon the whole case or for all the relief asked and a trial or the taking of testimony and a final hearing is necessary, the court at the hearing of the motion, by examining the pleadings and the evidence before it and by interrogating counsel, shall ascertain, if practicable, what material facts exist without substantial controversy and what material facts are actually and in good faith controverted. It shall thereupon make an order specifying the facts that appear without substantial controversy, including the extent to which the amount of damages or other relief is not in controversy, and directing such further proceedings in the action as are just. On the trial or final hearing of the action the facts so specified shall be deemed established, and the trial or final hearing shall be conducted accordingly.

(e) Form of Affidavits; Further Testimony. Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or served therewith. The court may permit affidavits to be supplemented or opposed by depositions, answers to interrogatories, or by further affidavits.

(f) When Affidavits Are Unavailable. If it appears from the affidavits of a party opposing the motion that

the party cannot for reasons stated present by affidavit facts essential to justify opposition, the court may refuse the application for judgment or may order a continuance to permit affidavits to be obtained or depositions to be taken or discovery to be had or may make such other order as is just.

(g) **Affidavits Made in Bad Faith.** If it appears to the satisfaction of the court at any time that any of the affidavits presented pursuant to this rule are presented in bad faith or solely for the purpose of delay, the court shall forthwith order the party employing them to pay to the other party the amount of the reasonable expenses which the filing of the affidavits caused the other party to incur, including reasonable attorneys' fees, and any offending party or attorney may be adjudged guilty of contempt.

West's F.S.A. § 95.231

95.231 Limitations where deed or will on record

(1) Five years after the recording of a deed or the probate of a will purporting to convey real property, from which it appears that the person owning the property attempted to convey or devise it, the deed or will shall be held to authorize the conveyance or devise of, or to convey or devise, the fee simple title to the real property, or any interest in it, of the person signing the instrument, as if there had been no lack of seal or seals, witness or witnesses, defect in acknowledgment or relinquishment of dower, in the absence of fraud, adverse possession, or pending litigation. The instrument shall be admissible in evidence.

(2) After 20 years from the recording of a deed or the probate of a will purporting to convey real property, no person shall assert any claim to the property against the claimants under the deed or will or their successors in title.

(3) This law is cumulative to all laws on the subject matter.

West's F.S.A. § 65.061

65.061. Quieting title; additional remedy

(1) Jurisdiction. – Chancery courts have jurisdiction of actions by any person or corporation claiming legal or equitable title to any land, or part thereof, or when any two or more persons claim to own the same land, or any part thereof under a common title against all persons or corporations claiming title to or occupying the land adversely to plaintiff, whether defendants claim or hold under a common title or not, and shall determine the title of plaintiff and may enter judgment quieting the title and awarding possession to the party entitled thereto, but if any defendant is in actual possession of any part of the land, a trial by jury may be demanded by any party, whereupon the court shall order an issue in ejectment as to such lands to be made and tried by a jury. Provision for trial by jury does not affect the action on any lands that are not claimed to be in the actual possession of any defendant. The court may enter final judgment without awaiting the determination of the ejectment action.

(2) Grounds. – When a person or corporation not the rightful owner of land has any conveyance or other evidence of title thereto, or asserts any claim, or pretends to have any right or title thereto, which may cast a cloud on the title of the real owner, or when any person or corporation is the true and equitable owner of land the record title to which is not in the person or corporation because of the defective execution of any deed or mortgage because of the omission of a seal thereon, the lack of witnesses, or any defect or omission in the wording of the acknowledgment of a party or parties thereto, when the

person or corporation claims title thereto by the defective instrument and the defective instrument was apparently made and delivered by the grantor to convey or mortgage the real estate and was recorded in the county where the land lies, or when possession of the land has been held by any person or corporation adverse to the record owner thereof or his or her heirs and assigns until such adverse possession has ripened into a good title under the statutes of this state, such person or corporation may file complaint in any county in which any part of the land is situated to have the conveyance or other evidence of claim or title canceled and the cloud removed from the title and to have his or her title quieted, whether such real owner is in possession or not or is threatened to be disturbed in his or her possession or not, and whether defendant is a resident of this state or not, and whether the title has been litigated at law or not, and whether the adverse claim or title or interest is void on its face or not, or if not void on its face that it may require extrinsic evidence to establish its validity. A guardian ad litem shall not be appointed unless it shall affirmatively appear that the interest of minors, persons of unsound mind, or convicts are involved.

(3) Deraignment of title. – The plaintiff shall deraign his or her title from the original source or for a period of at least 7 years before filing the complaint unless the court otherwise directs, setting forth the book and page of the records where any instrument affecting the title is recorded, if it is recorded, unless plaintiff claims from a common source with defendant.

(4) Judgment. – If it appears that plaintiff has legal title to the land or is the equitable owner thereof based on

one or more of the grounds mentioned in subsection (2), or if a default is entered against defendant (in which case no evidence need be taken), the court shall enter judgment removing the alleged cloud from the title to the land and forever quieting the title in plaintiff and those claiming under him or her since the commencement of the action and adjudging plaintiff to have a good fee simple title to said land or the interest thereby cleared of cloud.

(5) **Recording final judgments.** – All final judgments may be recorded in the county or counties in which the land is situated and operate to vest title in like manner as though a conveyance were executed by a special master or commissioner.

(6) **Operation.** – This section is cumulative to other existing remedies.

West's F.S.A. § 692.101

692.101. Conveyances to or by trustees of unincorporated churches

(1) Every deed or other instrument transferring real property to named or unnamed trustees of a named unincorporated church, including a deed or instrument executed prior to May 21, 1986, vests title to the real property in the trustees of the named unincorporated church and their successors with full power and authority to convey and mortgage the property transferred.

(2) Every deed or mortgage of real property in this state executed by the trustees of an unincorporated church and recorded in the public records of the county in which the real property is located prior to May 21, 1986, shall be held to be a good and valid deed or mortgage transferring or encumbering the church property described in the deed or mortgage.

(3) The pastor or secretary of, or other administrative person authorized by, an unincorporated church may execute an affidavit stating the names of the trustees of the unincorporated church as of the date or dates stated in the affidavit. Such an affidavit is conclusive as to the facts stated therein as to purchasers and mortgagees without notice.

(4) This section does not apply to any conveyance or mortgage heretofore made the validity of which is contested by suit commenced within 2 years after May 21, 1986.

IN THE CIRCUIT COURT OF THE
THIRD JUDICIAL CIRCUIT IN AND FOR
MADISON COUNTY, FLORIDA

CASE NO.: 98-010-CA

W.J. SPRADLEY, JR., EDWARD CAMPBELL and VIRGINIA CAMPBELL CARDIN as Representatives of the SPRADLEY-CAMPBELL REUNION MEMORIAL, & WILLIAM J. SPRADLEY III,

Plaintiffs/Counter-Defendants,

v.

OLD HARMONY BAPTIST CHURCH, BOARD OF TRUSTEES OF THE OLD HARMONY BAPTIST CHURCH, WILLIAM BAILEY, JAMES EMORY SPRADLEY, WAYNE HEATHERLY and RODNEY WATTS,

Defendants/Counter-Plaintiffs,

v.

WILLIAM E. REAMS, as PERSONAL REPRESENTATIVE DE BONIS NON ADMINISTRATIS OF THE ESTATE OF RICHARD SAMPSON PORTER, DECEASED,

Intervenor.
_____/

PROCEEDINGS had before the Honorable R.A. Green, Senior Judge, commencing at 9:00 a.m., at the Madison County Courthouse, Madison, Florida, on Monday, the 20th day of December 1999, before Vivian Tupou, R.P.R., C.S.R., and a Notary Public in and for the State of Florida at Large.

* * *

[4] DECEMBER 20, 1999

PROCEEDINGS 10:00 A.M.

THE COURT: Good morning, gentlemen.

MR. COLLINS: Good morning, Your Honor.

MR. SPRADLEY: Good morning.

THE COURT: This is the summary judgment from Friday. This was noticed as the trial on the counter – of the complaints and counter-petitions on the issue of the title of the realty in question.

On Friday afternoon I contacted counsel. Mr. Collins was not available, but his office staff was kind enough to be on call and accept the message, and I appreciated that courtesy because she would have been within her rights to have refused. So I appreciate her willingness to cooperate for you.

You fellows may want to take a moment to read that partial summary. It's clocked in downstairs.

Nothing on the record corroborates a finding but for that Old Harmony Baptist Church, as the organization that – I think the statute uses the word extinct or disbanded, anyway the organization as the title holder to the property in the 1940s. I found nothing that indicated anything that said who the trustees were.

There was a filing of the record, an [5] attachment to the motion by intervenor, that may lend credence to the possibility that one of the trustees of the church in 1981

was the plaintiff in this case, but I did not make that connection as a matter of law.

I found no inter vivos transfer of the one-acre parcel from the county out. I found no – nothing else in there that would seem to make a – other than a matter of law as to who the owners of the three – four parcels are. And that's what I've tried to hold in this finding.

I would be interested, however, in learning, if you gentlemen can present evidence as to who the trustees of the church in 1945 when it's disbanded were.

MR. PARRIS: Judge, if I can address the Court. Before we proceed with that I'd like to present an opportunity to present a motion for rehearing on the Court's ruling on the motion for summary judgment which were ordered – the order of which was rendered telephonically on Friday, December the 17th, 1999.

THE COURT: Have at it.

MR. PARRIS: Well, the Court granted the Defendant's motion for summary judgment against the plaintiffs by telephone conference on December 17th, [6] 1999, and while the matter of reformation of the 1889 deed from R. S. Porter to J.B. Spradley has been discussed, there have not been any pleadings or amended pleadings which have been filed seeking reformation. And the only issue which was to be decided at the summary judgment hearing of December 9th, 1999 was the quiet title issue.

Before addressing the issue of reformation a pleading should have been filed seeking reformation of the deed, and to entertain the defendants' request for rehearing

violates the Florida Rules of Civil Procedure 1.120, which sets forth the requirement of fraud or mistake via established in pleadings.

The Court's election to reform the 1889 deed sua sponte amounts to an unconstitutional taking of my client's property without due process in that my clients have not been afforded notice and an opportunity to be heard on the issue of reformation. Moreover, the defendants do not have standing to advance an argument on behalf of the 1889 deed because they were not a party to that transaction. The original conveyance was between R.S. Porter and J.B. Spradley.

Moreover a trial is required in order to reform a deed – or at least the opportunity to seek [7] trial, and there is no evidence to introduce reformation or to support a claim for reformation in this case as of yet.

Finally, if I can address the issue on why the motion of summary judgment should have been denied to the defendants. I believe that the defendants own admission is that they don't have any standing – I'm sorry, that the Court found that the defendants do not have any standing to be in this suit and that they are not the same organization that existed up until about 1945, therefore they don't have any standing to bring a motion for summary judgment.

Also the evidence presented by W.J. Spradley, Jr. has been uncontradicted in that his ancestors had possession of the property beginning in 1885 and that they exercised exclusive possession to all or parts of the property up through 1939 and paid taxes on all the property up through 1952.

Mr. Zant admitted on the record that one acre, the one acre which is to be distributed, or for which the determination of ownership is being sought today or being directed by the Court today, Mr. Zant admitted that that one acre had in fact been adversely possessed by the ancestors of my client, W.J. Spradley, Jr.

[8] The Spradley family has continued to possess the four acres which are being disputed since 1885 as evidenced by the bond between R.S. Porter and J.B. Spradley. And during that time that the Spradley family was in possession, from 1885 henceforth, the Spradley family has paid taxes and exclusively possessed the property through the present.

There's evidence that has been uncontradicted in the plaintiff's motion for summary judgment that the parcel of land that the church occupied was abandoned in 1945, and that the Spradley family exercised exclusive dominion and control from that date forward. This was supported by W.J. Spradley, Jr.'s deposition, which was attached to the motion for summary judgment, and which to date has been uncontradicted.

The Court had not made any finding regarding whether or not the elements of adverse possession could be satisfied prior to the 1939 and 1945 requirements. That is precisely the time during which the plaintiffs seek to establish that he in fact had adversely possessed the property.

And with regards to the element of tacking – I didn't get a chance to copy the case – but I did bring the Florida Jury which addresses tacking and [9] which states that

tacking is permitted by an adverse possessor to a prior possessor's claim of the property.

I could cite the case for the record. It's Kendrick versus Latham, 25 Florida 819, and there's a Kubler versus Rogers, 25 Florida, 853. Okeechobee Company v. Norton, 145 Florida, 417. Palm Orange Groves v. Yelvington, 41 So2d, 883.

THE COURT: Those cases stand for the proposition that?

MR. PARRIS: That the doctrine of tacking has been adopted in Florida. Continuous adverse possession as required by law may be accomplished by parol agreement or understanding, under which actual possession of the premises is delivered, as well as by written instrument of conveyance.

Basically they're saying that if successive possessions can be in privity with each other, that they can be used – they can be tacked together and the most recent holder of the property can assert the claim of adverse possession that could have been asserted by the predecessor holder, preceding holder.

I guess basically, Judge, we're asking that the Court grant the motion for rehearing and allow us an opportunity to submit legal memoranda addressing [10] the issue of reformation and requirements thereof in order that we can proceed accordingly.

THE COURT: Does anyone else want to be heard?

MR. COLLINS: Just in response, Your Honor, I would object to their motion for rehearing on notice. It

wasn't scheduled for today. It's an ore tenus and I just want to protect the record in that regard. And I object to the factual recitations that they make regarding facts that were made at the hearing.

That's all I've got to say.

THE COURT: Mr. Zant?

MR. ZANT: On the issue of tacking, I don't see where that has anything to do with the case because the church was in possession up until 1945, and so there could be no tacking prior to that because they could not apply the same piece of property. So that's irrelevant.

In other words, if the church was in possession of the property he could not tack back on any property, especially because there was none.

THE COURT: The only part that was a concern in that regard, Mr. Zant, was – well, let me start by saying first, it's ironic that the plaintiff complains [11] about the reformation of the deed that clears his predecessor's title to the hundred and fifty-six acres that was conveyed in 1986, but of course he didn't do that.

It seemed to me clear from the record that with the bond, the deed of 1889 could be defined to make it other than an invalid deed for lack of describing the four-acre reservation. That, read together with the deed by Porter to Madison County of 1901, I believe it was, oh one, led a surveyor to find on the ground what the three parcels were indeed.

And the effect of this judgment is to relate that back together and say that with that, Porter's deed to Spradley of 1889 makes sense and conveys definable property. And

at that time the four acres was reserved by that deed and referred to in the bond, which as I read it is a fancy word for saying a purchase – perhaps a contract for deed given some five years earlier by plaintiff's grandfather to Porter.

So if you relate forward you have then the hundred fifty-six acres with a definable four acres out. The definable four acres with the bond has recited two acres for the church, two acres reserved for Porter. That went on to 1901 when Porter conveyed [12] one acre for the school, to Madison County Board of Public Instruction.

So the only shady – meaning the hardest parcel to really figure out is the one acre remaining and the reservation to Porter, and that's a close question. Whether it went to Porter's heirs at the time of Porter's death or whether someone in this action should be allowed to establish a title to that by adverse possession without color of title prior to 1939.

Now to the extent the thing that's been said that gives me cause to say perhaps it would make sense to do, would be litigate the issue of title to that one-acre piece, allowing plaintiff, if plaintiff can show an adverse possession without color of title against the heirs of Porter and have a full-blown trial on that one sub-issue.

But none of that attacks the question of the greatest part of this controversy, which is the ownership of the two acres reserved in the deed as reformed to Porter to Old Harmony Baptist Church. And I found nothing in the record that I read that connected the defendant's Old Harmony Baptist Church to the people that went back in possession in the nineties and attempted to hold services

there. It [13] connects them as being the same religious organization as was Old Harmony that disbanded in 1945.

And I think Chapter 692 is clear that the trustees of an extinct religious organization have the authority to convey or come to title of the church property. So it seemed to me to follow that in that case those trustees would be at least the owners in trust for the interest of the extinct religious organization.

Now, I don't know who those trustees were. That's why in this motion – this order of summary I asked to find the identity of the heirs of Richard Sampson Porter as they existed at the time of his death and the identity of the trustees of the Old Harmony Baptist Church as it existed at the time of its extinction. I said around 1947. We're talking about 1945, 1946.

There's something in the record. The Baptist Association showed that it was no longer a member as of a certain date. This –

MR. PARRIS: Forty-five.

THE COURT: Forty-five. All right. That would be the obvious date I would use.

MR. PARRIS: Judge, can I – not to interrupt you, but in your order it says 1947. Can we [14] just on the record clarify in Paragraph 5, 1945? And I think that's relevant in that 1945 – actually it was 1946, January 1, 1946 was the year that the legal description filing requirement was codified in the Florida Statutes.

If Your Honor reconsiders the motion for summary judgment that could have an effect on how we present

our claim with regards to the requirement not being necessary to establish adverse possession prior to that time. There was a window of time during which the church became extinct in 1945 and the time that the statute went into effect, and my clients. If the Court accepts that my clients were in possession during that window of time the exclusivity element of adverse possession can be satisfied along with everything else, notwithstanding any other arguments that could be made prior to that time.

THE COURT: I'm going to leave the order as it stands. I wanted to explain my rationale in doing so.

I'd like to also point out that the Campbell family reunion lease by plaintiff was ineffectual to convey record interest in that group as against the found-to-be-true owners, and I will go into my rationale for doing that if necessary, but I won't [15] unless it's necessary.

MR. PARRIS: I just wanted to clarify: I believe that the Campbell – the Campbell family reunion was listed initially because the complaint was for injunctive relief.

THE COURT: I understand.

MR. PARRIS: Quiet title was in Spradley.

THE COURT: Can you fellows help me determine who the trustees were at the time the church gave up?

MR. COLLINS: I can try, Your Honor.

* * *

[18] I was thinking when I was thinking this through, if this had been a Catholic congregation or a Catholic church, having some Catholic blood in me, they would certainly never have let that piece of property be wasted. It probably would have been a youth park or – I mean, you know, but when we have congregational, like Baptists, when one congregation ceases to exist, unless there's been action taken pursuant to the statutes that this Court's already seen, 6117-2004 and 2003, you know, then that property just sits there.

And then when a problem like this presents itself this court's had to deal with it. We have to take the best title we can, and I will submit to the Court that if this Court will consider at the proper time that we would put Mr. Bailey under oath and question him regarding his participation as a member of that church, his baptism, his recollection of who was present and let that form the evidentiary basis to reform that title pursuant to 692.101.

That's all I've got.

[19] THE COURT: Mr. Zant?

MR. ZANT: I would like to add to what Mr. Collins has said in the way of enlightenment as opposed to the Baptist way of doing –

THE COURT: Tell him about it.

MR. ZANT: – as opposed to what the law says, and the law is really outside of the whole question of what the Baptists do. That's the wall of separation.

There's one point that we all – the Baptists are really hard on, and that is the trustees only hold title. They act on orders from the congregation. The Baptists are – they

go on the Bible verses of where two or three are gathered together, that is the congregation. And they're free to form anywhere at anytime.

Now, we weren't able to find any law except what we have in our – this is not law, but this is in the title notes for insuring title, and the attorney's title notes say that for issuing the following policy and beneficiaries are entitled to proceed promptly and must be – in an action properly brought against all the heirs – well, that doesn't apply.

It says the transfer of title into the name of an unincorporated church is not addressed in [20] Section 692.101, which is what he has.

Now, it goes on to say the title to such congregation – the title is vested in the congregation as a whole.

THE COURT: Well, let me ask Mr. Parris for his enlightenment on that.

MR. PARRIS: First, just for the record, I'd like to make an objection to the Court taking judicial notice of the hierarchical/congregational makeup of the organization of the Harmony Baptist Church which went out of existence in 1945, or for that matter any Baptist association. I think that's a question of ecclesiastical consideration which the Court – going along with what Mr. Zant said – might be crossing the separation powers line if it were to adjudicate upon or let alone take judicial notice of.

* * *

[23] MR. SPRADLEY: Right, and they have copies of those minutes.

THE COURT: So the minutes stop nine years, [24] ten years before the church allegedly disbanded.

MR. SPRADLEY: And also reviewing the minutes myself, I'm not aware of the word trustee or any reference to trustees or leadership positions in the minutes. They make reference to messengers going to conventions and different preachers and that appears to be – besides having committees to do special projects here and there, a couple of committees, but they don't ever mention trustees in my review of the minutes from – beginning in the 1840s up until 1936.

So if they had trustees from 1936 to 1945, I'm not aware of any trustees.

THE COURT: I accept your representation.

MR. ZANT: Could I just say one more –

THE COURT: Sure.

MR. ZANT: – thing to enlighten the subject.

THE COURT: Put some more light on the subject, Mr. Zant.

MR. ZANT: All right. I think it can be established at least as a congregational church. We have two cases on a Baptist church, and those cases I'll recite them to you, and I'll also give them to you.

Parton versus Tucker, 172 So.2d – I'm [25] sorry, just plain Southern, Page 89. And First Independent Missionary Baptist Church versus McMillan, 153 So.2d, 337.

The enlightenment of these cases is that if a Baptist church has a visiting preacher, visiting that church, the courts can decide who has the right to the property between those visits. It can go that far. You have to have some way of deciding property rights.

THE COURT: That's right, and it goes with the majority.

MR. ZANT: Right, but it cannot decide – say this is in light of the separation of church and state, you can't decide which congregation, between two outside congregations. That is a Baptist thing, and that is a danger that we don't want to cause to happen if we can possibly help it.

THE COURT: Tell me something, Mr. Zant, you filed a motion, and I've forgot what the pleading was, and you attached to it a document from Buckeye Cellulose to the trustees of Old Harmony Baptist Church, and J.W. Spradley was named as one of those trustees.

MR. ZANT: That's right.

THE COURT: And the others were Campbells as

* * *

[30] Baptist and I want to be in this pot too, seeing who gets this old property. Where would you stop, Mr. Zant?

MR. ZANT: Well –

THE COURT: See, that's my point. I can offer two types of proof. Well, one type of proof and two people. Bailey and Spradley as to Old Harmony one. Who

was in it originally? I've also had it represented that the documents don't reflect anything post-1936.

So, I guess what we ought to do is hear the testimony of Mr. Bailey and Mr. Spradley as to who was in the congregation when it disbanded, and I think probably because of the lateness of the notice of the summary judgment motion it would be cricket to give either side additional time to produce additional testimony about the original congregation.

I'm wondering, would there be anything to be gained by trying to – put something in the paper and ask people who may have been members of the Old Harmony Baptist Church in the forties to come forward and contact the clerk of court or something and see –

MR. COLLINS: Your Honor, I think that that might be a good idea, but my brief experience in this case most of the people who are survivors of that [31] congregation are sitting in this room right now on both sides of the table. From my experience from the testimony and –

THE COURT: Are you suggesting there may not be more than two people, Mr. Collins? I misunderstood you. I thought you said there were only two people –

MR. COLLINS: Well, I'm talking – may I finish? What I'm saying is, is of that original congregation it's our position that William Bailey was baptized in that church, defining him as a real member of that congregation. But as to other people who were perhaps residents of this county, while your suggestion is a good idea, I personally believe based on the discovery you're going to find everyone who's had an interest or knew someone, or

who is a descendant or relative is here. You've got them here in this room.

THE COURT: Mr. Zant?

MR. ZANT: The thing that stands out about Mr. Bailey though, that he never loses his membership.

MR. COLLINS: Right, that's a good point.

THE COURT: Okay?

MR. PARRIS: Judge, earlier the Court indicated that we might take a break. Before we do that I'd just like to leave the Court with a parting

* * *

[33] can round up any other folks that might have some wisdom that they might be able to impart. Otherwise – did you want to go ahead?

W.J. SPRADLEY, JR.,

called as a witness herein by the Court, having been first duly sworn, testified as follows:

EXAMINATION

BY THE COURT:

Q I'm calling Mr. Spradley as a court witness. Would you state your name and address, please.

A W.J. Spradley, Jr., Route 1, Box 90, Greenville, Florida.

Q You are the party plaintiff in this case, are you not, sir?

A Yes, sir.

Q You've been present during the morning today where the conversation about Old Harmony Baptist Church one was discussed?

A Right.

Q Can you give us the benefit of your information, if you have any, about that congregation? Specifically, were you a member of that congregation?

A I was.

[34] Q Were you baptized in that church?

A I don't recall being baptized because I was about ten or twelve years of age, so it's hard for me remember, but I was a member of the regulars.

Q Where were you baptized, sir?

A I was baptized in Oklahoma.

Q And did you transfer here from Oklahoma?

A Well, not yet, no. Not to a local church, no.

Q I see. Was your baptism in Oklahoma before you were ten or after –

A After I was in the military.

Q I see. Later? Okay. And in 1945, or thereabouts, what was your connection with the Old Harmony Baptist Church?

A I was just a member, and it was on our – there was church services being held once a month and we attended services there on Sundays and Sunday nights.

Q And by your best memory, when was that place no longer used – when I say place, I mean the old church – as a house of worship?

A It was somewhere in the forties. Nineteen forty-five, I believe it was, whatever the last time it says.

[35] Q You were in the military what years?

A Forty-eight through sixty-nine.

Q This would have been before you went to the military.

A Yes, sir.

Q And you began to attend there when you were ten or thereabouts, but you were later baptized in Oklahoma, I gather when you were in the service.

A Yes.

Q How old were you when you were baptized?

A I was about I believe – twenty-seven years old.

Q Were you – if you started attending when you were ten, I presume there were other people that attended in your family.

A Yes, sir.

Q Do you remember any of those who are still living?

A Yes, sir.

Q Could you give us some names?

A All right. There's one that's Marjie Henderson, which was – she's still living, South Bay. There's an Idavee Lambert, Texas, she's still living. Jackie O'Quinn in Motley, Florida, she's still living. There's an R. D. Spradley in Liberty, Texas, he's [36] still living. There's a Gwen Varela in West Palm Beach and she's still living.

Q And were some of these folks relatives of yours?

A Yes, they're all sisters, sisters and brothers and –

Q Do you recall at age ten – it might be hard – who the preacher was at Old Harmony?

A Well, there was some preachers that would come in on a regular – one of them was – I had an uncle that was a Reverend John Vann that preached there regularly in the early thirties, but he's the one that sort of – made me go to church I suppose when I was a young lad, and he was my uncle. And then there was Duffit (phonetic) Henry and then there was a couple more that came through, but recalling their names right now – I can't recall the names, but there was people that would come in for one month at a time.

Q And, Mr. Spradley, what is your date of birth?

A 5/24/32.

THE COURT: Does either party have questions in furtherance of the Court's questions?

MR. SPRADLEY: I have some questions, Your Honor.

* * *

[39] WILLIAM BAILEY,

called as a witness herein by the Court, having been first duly sworn, testified as follows:

EXAMINATION

BY THE COURT:

Q State your name and address, please, sir?

A William Bailey, Route 1, Box 8, Lamont, Florida.

THE COURT: Let the record reflect Mr. Bailey is called as a Court witness.

BY THE COURT:

Q Mr. Bailey, were you at any time a member or did you attend the church called Old Harmony one?

A Yes, sir.

Q What was your connection, if any, with the church?

A Well, I was just a member, going to church, back in about '38, '39, somewhere around that, but I went there ever since I was – rightly before I was born, if you want to call it with my mother taking me.

Q What is your date of birth?

A Twenty-eight, 6/14/28.

Q Twenty-eight? So you are probably four years older than Mr. Spradley who just testified.

A Well, I imagine. I don't know – when was [40] he born?

Q I think he testified in 1932.

A Thirty-two? I was born in '28.

Q All right. Now, when and where were you baptized?

A Old Harmony Church in Alligator Creek.

Q When was that?

A Well, that was about – I was about I guess a ten- or twelve-year-old. I guess about '38, somewhere around there, '38 or '39.

Q When did you cease to attend Old Harmony Baptist Church?

A Whenever it closed.

Q When was that?

A I believe whatever they got on record, about '45 or '46, something like that.

Q If you hadn't heard the record of when it happened, how would you estimate when it closed?

A Pardon?

Q Is there something in your life that makes you feel that '45 or '46 was when it closed?

A Well, that's all I know of, '45 or '46.

Q Let me put it a different way.

A I don't know any other way I –

Q Sometimes we remember something happening, [41] but remember something going on in our life that

helps us remember when it did happen. And my question to you is, is there anything that touches your memory that makes you feel that '46 or '45 was when Old Harmony disbanded? Do you remember anything else that happened about the same time?

A Well, not really, no more than I know it closed.

Q Were you in the armed forces during the Second World War?

A Yeah.

Q What was the date of your service?

A 1950 to '52.

Q Fifty and '52. So in the forties you were not in the service.

A No, sir. I was drafted in 1950 and '52.

Q Korea.

A Korean conflict.

Q Okay. What did you do after you – let me ask it a different way. When the church quit meeting there, where did you start attending?

A I didn't attend anymore.

Q No other church?

A No, I didn't go. I left and went down to Miami, Fort Lauderdale.

[42] Q Did you move your letter to Miami?

A I moved there but I didn't go in no church down there.

Q You did not move your letter to Miami?

A No, sir, I did not move anything. It all stayed just like it was.

Q Where do you attend now?

A Where do I attend now? Old Harmony Church, the one that was tore down. They have a tent out there.

Q Where did you attend from the time you came back from Miami till you started attending out there?

A Well, I didn't go at the time when I first come back.

Q When did you come back?

A In 19 and 95, something like that, '94, I moved back home. It wasn't long after that that they got it organized and started.

Q When you last attending in the forties, who else was regular in church when you were there?

A Well, there was my family, the Spradley family. Brothers and sisters, a lot of them. There was people from all over the country around there that was in that.

Q How big was the church in number of people?

[43] A Oh Christ, I was it – I don't know what the numbers was when I was attending there small. They couldn't even get inside the building. They was standing out looking in the windows. There was probably hundreds there at times.

Q And who was the preacher in 1945 that you recall?

A Well, I don't recall who the preacher was. All I know we had Preacher Lordon (phonetic), Brother Vann and Brother Koker, and I don't know who else was in and out.

Q Is it accurate that your letter has never been moved from Old Harmony one?

A It's never been moved.

THE COURT: Cross by either party?

CROSS-EXAMINATION

BY MR. COLLINS:

Q Where is Alligator Creek in relation to Old Harmony Baptist Church?

A Oh, about a quarter of a mile or half a mile north of Old Harmony Church on 150.

Q And could you describe how that baptism took place in your own words for the Court, how you were [44] baptized?

A Well, you just went and you walked in and they said a little prayer and turned you over backwards and held their hand over your mouth and nose to keep the water from going in, and stuck your head under and raised you back up.

Q Do you recall who did that to you back then?

A No, I don't recall who it was 'cause I was rather young.

MR. COLLINS: No further questions.

CROSS-EXAMINATION

BY MR. ZANT:

Q Was there other people baptized along with you?

A Well, there was a lot of other people. A lot of young people like I was, different ages.

Q Baptized –

A Sometimes – all the time there was people baptized there.

Q Do you remember who was baptized along with you or –

A No, I don't. Not at that time, I don't remember who it was.

* * *

[47] anybody –

THE WITNESS: Well, a lot of them is dead and gone and a lot of the names I can't remember.

THE COURT: Well, Mr. Bailey –

THE WITNESS: That's been a long period of time.

THE COURT: Well, I know it, and I know I have seen your moments, and I'm not accusing you. But what I

want you to do is right your mind as best you can, just as best you can, to remember people who attended the church about the time it broke up that you were there, and then make a note which ones you know have passed on, because there's going to be a lot of those. And I want to see if you remember anybody besides those who passed on.

And, Mr. Spradley, let me ask you to do the same thing. And then at one o'clock maybe get you to give me those lists by testimony. Fair enough?

MR. BAILEY: Well, I'll see what I can do.

THE COURT: And I'd like to make an announcement for the record. I was raised in the First Baptist Church of Starke. I was baptized there. I was a deacon in the First Baptist Church of Gainesville. Both were – and I assume still are – members at the time I was of the Southern Baptist [48] Convention.

I mention that only to say to these folks, that when you're talking Baptist religion and the denominational rulings of the church, I have some personal dealings of those.

I'm now attending and a member of the First United Methodist Church of Starke.

Do you have other witnesses?

MR. COLLINS: Your Honor, all we would have, and I would just proffer first also for time, is we do have Martha Bell Bailey who attended the church as a five year old and only remembers being there one time. I don't know if that's helpful to the court. If it's not –

* * *

[49] MR. COLLINS: Your Honor, may I ask a question, just so I know? I think I know where the Court is headed. I think –

THE COURT: Where do you think the Court is headed?

MR. COLLINS: We're trying to recreate a [50] congregation that existed at that time that had trustees so we can vest title in them?

THE COURT: No, no. We're probably trying to find out who was there so I can appoint some trustees.

MR. COLLINS: Okay. I just – and then under the statute, 692.101, let's say – ahead of ourselves – we aren't able to. I believe the statute could still allow you to vest title in unnamed trustees even if you couldn't, wouldn't it? I think so.

THE COURT: What is that statute?

MR. COLLINS: Conveyances to or by trustees of unincorporated churches.

* * *

IN THE CIRCUIT COURT OF FLORIDA
THIRD JUDICIAL CIRCUIT, IN AND FOR
MADISON COUNTY.

CASE NO.: 98-010-CA

W. J. SPRADLEY, JR., and EDWARD CAMPBELL and VIRGINIA CAMPBELL CARDIN as Representatives of the SPRADLEY-CAMPBELL REUNION MEMORIAL,

Plaintiffs/Counter-Defendants,

vs.

OLD HARMONY BAPTIST CHURCH, BOARD OF TRUSTEES OF THE OLD HARMONY BAPTIST CHURCH, WILLIAM BAILEY, JAMES EMORY SPRADLEY, WAYNE HEATHERLY and RODNEY WATTS,

Defendants/Counter-Plaintiffs,

vs.

WILLIAM E. REAMS, as PERSONAL REPRESENTATIVE DE BONIS NON ADMINISTRATIS OF THE ESTATE OF RICHARD SAMPSON PORTER, DECEASED,

Intervenor.

HEARING ON MOTIONS

This cause came on for hearing on various motions before the Honorable R. A. Green, Jr., Senior Circuit Judge, in open court at the Columbia County Courthouse, Lake City, Florida, commencing at 10:00 a.m. on May 5, 2000.

* * *

[75] land, then that fits right into the old adverse possession thing. That's right, if it's yours, you've got to cultivate it and you've got to maintain it and you've got to stay with it. The law says that.

Because if another man comes in and for 45 years he takes over and he takes care of it and he preserves it and he spends his money in it, the law of adverse possession says –

THE COURT: It doesn't in this court when the possessor – when the owner is a church.

MR. BULLOCK: And that church ceased to exist in 1845 – I'm sorry, in 1945. And no member of that congregation for 40 years went out there to take care of it. No member, for 40 years, went out there to clean the headstones or do anything.

The reunion people –

THE COURT: That argument is still an argument for the good faith of the people involved. And I'm – I think I know where I'm going, but I want to give everybody a shot at this.

Mr. Zant, you've been awfully quiet this morning.

* * *